

EXHIBIT 15

Jerry G. Blaivas, M.D.

1 IN THE UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NORTH CAROLINA
3 ASHEVILLE DIVISION

4 - - -

5
6 BERTIE FRANKUM : CASE NO.
 : 1:15-CV-00091
7 Plaintiff, : -MOC
 :
8 v. :
 :
9 BOSTON SCIENTIFIC :
CORPORATION, :
 :
10 Defendant. :

11 - - -

12 May 2, 2016

13 - - -

14
15 Videotaped deposition of
16 JERRY G. BLAIVAS, M.D., taken pursuant to
notice, was held at the offices of JERRY
17 G. BLAIVAS, M.D., 445 East 77th Street,
New York, New York, beginning at 11:14
18 a.m., on the above date, before Michelle
L. Gray, a Registered Professional
19 Reporter, Certified Shorthand Reporter
and Notary Public.
20

21 - - -

22 GOLKOW TECHNOLOGIES, INC.
23 877.370.3377 ph | 917.591.5672 fax
 deps@golkow.com
24

1 APPEARANCES:

2

3 BEASLEY ALLEN CROW
4 METHVIN PORTIS & MILES, P.C.
5 BY: P. LEIGH O'DELL, ESQUIRE
6 218 Commerce Street
7 Montgomery, Alabama 36104
8 (334) 269-2343
9 leigh.odell@beasleyallen.com
10 Representing the Plaintiff

11

12 SHOOK, HARDY & BACON, LLP
13 BY: JON A. STRONGMAN, ESQUIRE
14 2555 Grand Boulevard
15 Kansas City, Missouri 64108
16 (816) 474-6550
17 jstrongman@shb.com
18 Representing the Defendant

19

20

21 VIDEOTAPE TECHNICIAN:
22 Daniel Ortega

23

24 Margaret Thompson
(via telephone)

25

26

27

28

29

30

31

32

33

Jerry G. Blaivas, M.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

- - -
I N D E X
- - -

Testimony of:

JERRY G. BLAIVAS, M.D.
By Mr. Strongman 6

- - -
E X H I B I T S
- - -

NO.	DESCRIPTION	PAGE
Blaivas-1	Notice of Deposition	7
Blaivas-2	Supplemental Rule 26	8
	Expert Report of	
	Jerry G. Blaivas, M.D.	
Blaivas-3	Safety Considerations	14
	For Synthetic Sling	
	Surgery	
	(Blaivas)	
Blaivas-4	Supplemental Rule 26	67
	Expert Report of	
	Jerry G. Blaivas, M.D.	
	(With Comments)	
Blaivas-5	Binder/Notebook of	68
	Jerry G. Blaivas, M.D.	

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

- - -
DEPOSITION SUPPORT INDEX
- - -

Direction to Witness Not to Answer

PAGE LINE

None.

Request for Production of Documents

PAGE LINE

None.

Stipulations

PAGE LINE

None.

Questions Marked

PAGE LINE

None.

1 THE VIDEOGRAPHER: We are
2 now on the record. My name is
3 Daniel Ortega. I'm a videographer
4 for Golkow Technologies.

5 Today's date is May 2nd,
6 2016, and the time is 11:14 a.m.

7 This video deposition is
8 being held at 445 East 77th
9 Street, New York, New York, in the
10 matter of Bertie Frankum versus
11 Boston Scientific, Pelvic Mesh,
12 for the United States District
13 Court for the Western District of
14 North Carolina.

15 The deponent is Dr. Jerry
16 Blaivas.

17 Counsel, please identify
18 yourselves.

19 MR. STRONGMAN: Jon
20 Strongman on behalf of Boston
21 Scientific.

22 MS. O'DELL: Leigh O'Dell
23 and Margaret Thompson on behalf of
24 plaintiff Bertie Frankum.

1 THE VIDEOGRAPHER: The court
2 reporter is Michelle Gray and will
3 now swear in the witness.

4 - - -

5 ... JERRY G. BLAIVAS, M.D.,
6 having been first duly sworn, was
7 examined and testified as follows:

8 - - -

9 BY MR. STRONGMAN:

10 Q. Can you please state your
11 name for the record?

12 A. Jerry Blaivas.

13 Q. Dr. Blaivas, my name is
14 Jon Strongman, I represent Boston
15 Scientific here today. I've got an hour
16 with you. And I promise to keep it to an
17 hour. If there's anything that comes up,
18 you need to take a break for some reason,
19 you've got someone visiting, let me know.
20 We're happy to make that accommodation.
21 Okay?

22 You've been deposed a number
23 of times, correct?

24 A. I have.

1 (Document marked for
2 identification as Exhibit
3 Blaivas-1.)

4 BY MR. STRONGMAN:

5 Q. I'm going to hand you what's
6 been marked as Deposition Exhibit Number
7 1, which is just the notice of your
8 deposition. Have you brought anything
9 with you to the deposition today?

10 A. Yeah. I have -- mm-hmm -- a
11 notebook with a number of documents in
12 it.

13 Q. Can you describe what's in
14 your notebook for me?

15 A. It's my -- my supplemental
16 report in this matter, my curriculum
17 vitae, my reliance list, and a number of
18 selected articles that we've used in the
19 reliance list, yeah, and my original
20 expert report.

21 Q. Have you brought anything
22 else with you today other than what
23 you've described in your notebook?

24 A. A cup of coffee.

1 (Document marked for
2 identification as Exhibit
3 Blaivas-2.)

4 BY MR. STRONGMAN:

5 Q. All right. Doctor, I'm
6 going to hand you what has been marked as
7 Deposition Exhibit Number 2, which is a
8 copy of your supplemental report in this
9 matter; is that correct?

10 A. It is.

11 Q. All right. And if you look
12 at the last page, this supplemental
13 report is dated the 21st of December,
14 2015; is that correct?

15 A. That's correct.

16 Q. And that's your signature on
17 the tenth page, I believe?

18 A. It is.

19 Q. And can you tell me how what
20 we've marked as Deposition Exhibit Number
21 2 came about? Why did you write your
22 supplemental report in this matter?

23 A. Because there were things
24 that I felt like I needed to expand upon.

1 Q. What things did you feel
2 like you needed to expand upon?

3 A. Well, they're in the report.
4 Do you want me to go over them one by
5 one?

6 Q. Let me ask a question. You
7 authored a report in this matter
8 regarding the Obtryx device in 2014; is
9 that correct?

10 A. Yes.

11 Q. And were you aware that a
12 judge excluded some of your opinions in
13 that report?

14 A. I was. Well, I am now. I
15 wasn't at the time.

16 Q. Were you aware that the
17 judge excluded some of your opinions
18 regarding the safety of mesh for the use
19 of incontinence before you authored what
20 we've marked as Deposition Exhibit Number
21 2?

22 A. I don't have an independent
23 recollection of that. And I don't -- I
24 didn't know it was about the -- just

1 about the safety. But --

2 Q. Have ever read the order
3 regarding the judge's exclusions of your
4 opinion in this matter?

5 A. No.

6 Q. Nobody has provided it to
7 you?

8 A. I don't have a recollection
9 if it's been provided. But I know I
10 didn't read it.

11 Q. Did you meet with
12 plaintiff's counsel today?

13 A. I did.

14 Q. And for how long?

15 A. About an hour and a half,
16 hour and 45 minutes.

17 Q. And how many times have you
18 met with counsel for plaintiffs in this
19 matter, if you recall?

20 A. About this case?

21 Q. Correct.

22 A. Just once, I think. Just
23 yesterday. Excuse me. This morning.

24 Q. And did you ever meet with

1 counsel before you prepared your
2 supplemental report, Exhibit 2?

3 A. I did briefly. I didn't
4 think it -- well, actually I don't have
5 an independent recollection about what
6 case it was involving.

7 Q. Let me back up. You said
8 that at some point you became aware of
9 the fact that some of your opinions had
10 been excluded by the judge, correct?

11 A. Yes.

12 Q. Okay. Were you told why?

13 A. Yes.

14 Q. And what were you -- what is
15 your understanding as to why some of your
16 opinions were excluded?

17 A. That I -- the judge believed
18 that I used interpreted -- that I said I
19 used a different standard for my
20 medical -- my scientific and medical
21 positions than I did for legal positions.

22 Q. And part of what you address
23 in your supplemental report is that
24 issue, correct?

1 A. Correct.

2 Q. In fact, you include some
3 language in your supplemental report
4 specifically to say that you believe you
5 use the same level of rigor in both
6 settings; is that right?

7 A. I believe that I use a
8 higher standard than -- I use a higher
9 standard than -- I use the highest
10 possible standard. Let's leave it at
11 that.

12 Q. And when you say you use the
13 highest possible standard, are you
14 referring to your work in litigation?

15 A. No, my -- not specifically.
16 I believe that I use the highest possible
17 standard of scientific rigor when I come
18 to the conclusions about legal matters
19 and about medical matters. I use the
20 same criteria for both.

21 Q. You do not believe that
22 there are two different standards, one
23 for legal matters and one for the
24 scientific literature?

1 A. Not with respect to my
2 opinions, no.

3 Q. And, Doctor, is your fee
4 schedule the same?

5 A. It is.

6 Q. And you charge \$15,000 for a
7 deposition; is that correct?

8 MS. O'DELL: Objection.

9 THE WITNESS: For a day.
10 For -- for twenty- -- for an
11 entire day of deposition, yes.

12 BY MR. STRONGMAN:

13 Q. What will you charge for the
14 deposition today?

15 A. I don't know. That will be
16 up to my administrative assistant.

17 Q. Have you updated your fee
18 schedule at all over the last couple of
19 years?

20 A. Changed the dollar amount,
21 what I charge?

22 Q. Correct.

23 A. I don't believe so.

24 Q. And have you previously

1 charged \$15,000 for a deposition
2 regardless of how long it took?

3 A. No. I believe that I charge
4 for a full day and a half day.

5 Q. One of those two options?

6 A. Yes.

7 Q. Okay. Doctor, when you
8 wrote your supplemental report that we
9 marked as Exhibit Number 2, one of the
10 primary pieces of information that you
11 cite to is your article entitled "Safety
12 Considerations for Synthetic Sling
13 Surgery"; is that correct?

14 A. That's correct.

15 (Document marked for
16 identification as Exhibit
17 Blaivas-3.)

18 BY MR. STRONGMAN:

19 Q. And I'm going to hand you
20 what's been marked as Exhibit Number 3.
21 Is that a copy of your article?

22 A. It is.

23 Q. And when was the article
24 that we've marked as Exhibit Number 3

1 published?

2 A. 2015. Do you want me to
3 find the exact date? September of 2015.

4 Q. It looks like, just like
5 things in today's world, they're
6 published online first and then later in
7 a journal. Is that typical?

8 A. Yes.

9 Q. And so looking at this, this
10 appears that this was first published
11 online in August of 2015; is that
12 correct?

13 A. Well, if you want me to
14 check, I will. But that's about correct.

15 Q. Do you know when this
16 article, "Safety Considerations for
17 Synthetic Sling Surgery," was submitted
18 for publication?

19 A. I know a number of months
20 before it was -- it went through a very
21 rigorous review process, so it took
22 longer than usual.

23 Q. Did you submit this article
24 to more than one publication?

1 A. I did not. I was invited to
2 do this. This wasn't a spontaneous
3 thing.

4 Q. Who invited you to write
5 this article?

6 A. The editors of Nature
7 Reviews Urology.

8 Q. And who specifically was
9 invited to author the article? You,
10 yourself, correct?

11 A. Yes.

12 Q. Anybody else specifically?

13 A. No.

14 Q. And so who was responsible
15 for collecting the authors that are
16 listed on Deposition Exhibit Number 3 to
17 put this article together?

18 A. Myself.

19 Q. And you understand that
20 there are other authors that are on this
21 list that are also experts in litigation;
22 is that correct?

23 A. Correct.

24 Q. And had you ever met

1 Dr. Iakovlev before you became involved
2 in mesh litigation?

3 A. I have not.

4 Q. Have you ever met
5 Dr. Iakovlev in person?

6 A. I have.

7 Q. How many times?

8 A. Two or three. I mean, we
9 eventually wrote an abstract together
10 that -- and were working on a paper.

11 Q. And in your article, you
12 talk about the fact that, to date, there
13 are over 3 million mesh slings that have
14 been placed; is that correct?

15 A. We mentioned that, yes.

16 Q. And you did research to try
17 to collect data to come to a reasonable
18 conclusion as to how many synthetic
19 midurethral slings have been placed in
20 the United States; is that correct?

21 A. No. We simply accepted the
22 data from a few papers. It wasn't
23 something -- that wasn't something that
24 we specifically researched.

1 Q. You have no reason to refute
2 the data that you found in the various
3 papers that you cite though, correct?

4 A. About the numbers of slings?

5 Q. Correct.

6 A. No, I don't.

7 Q. On the first page of your
8 article, you cite or -- strike that.

9 On the first page of your
10 article, you have a competing interests
11 section. Can you explain that, what it
12 is?

13 A. Yes. It's a standard --
14 it's a standard form that most
15 peer-review journals ask for. And I --
16 and I simply stated what things that I --
17 what I engage in that might be perceived
18 as a conflict of interest.

19 Q. And specifically, you listed
20 a couple of things for yourself; is that
21 correct?

22 A. I did.

23 Q. And the first one you listed
24 was that you have provided opinions as a

1 medicolegal expert in -- expert witnesses
2 in mesh litigation cases, correct?

3 A. Correct.

4 Q. And then you also list that
5 you had acted as a consultant for a
6 pharmaceutical company at one time; is
7 that correct?

8 A. Correct.

9 Q. And in your competing
10 interest disclosure, do you identify what
11 side you have provided expert opinion for
12 in the pelvic mesh litigation?

13 A. Well, I presume -- I know
14 because I have provided opinions on both
15 sides.

16 Q. In a pelvic mesh litigation,
17 have you ever provided an expert opinion
18 on behalf of a manufacturer of mesh?

19 A. I'm sorry. I wasn't
20 listening. You -- I'm sure you said it
21 properly.

22 Q. Sure. In the pelvic mesh
23 litigation -- are you with me on that?

24 A. Yes.

1 Q. In that context, have you
2 ever provided an expert opinion on behalf
3 of a mesh manufacturer?

4 A. I have not.

5 Q. So in the context that we
6 are in today, that being plaintiffs
7 against mesh manufacturers, you've only
8 offered expert opinions on behalf of
9 plaintiffs, correct?

10 A. Yes. Correct.

11 Q. And then with regard to your
12 consulting with, I believe -- the first
13 thing is Astellas Pharma; is that
14 correct?

15 A. Yes.

16 Q. And do you believe that you
17 are able to offer a fair and appropriate
18 opinion despite the fact that you've at
19 times consulted with a pharmaceutical
20 company?

21 A. Of course.

22 Q. And you would expect other
23 doctors that have consulted with either
24 pharmaceutical or medical device

1 companies to be able to offer fair and
2 reasonable opinions as well?

3 MS. O'DELL: Object to the
4 form.

5 THE WITNESS: I would hope
6 so.

7 BY MR. STRONGMAN:

8 Q. At any time with regard to
9 your submission that we've marked as
10 Exhibit Number 3, did you have to
11 disclose how much money you have made in
12 mesh litigation as an expert witness?

13 A. In individual cases they ask
14 me how much I've billed for those cases.
15 I don't remember anybody asking me about
16 the totality of it, but they might have.
17 I just don't have an independent
18 recollection.

19 Q. Did the editors or the
20 reviewers of your article, "Safety
21 Considerations," did those editors or
22 reviewers ask for the totality of your
23 compensation in your role as an expert
24 witness in litigation?

1 A. They did not.

2 Q. Do you believe that the
3 totality of that number has any bearing
4 one way or another?

5 A. I don't believe it has any
6 bearing on the veracity of my opinions.
7 But conflict of interest, by definition,
8 is what other people perceive. And I
9 don't know what other people perceive
10 about that.

11 Q. Do you believe that with
12 regard to the possible perception of
13 conflict of interest, that it would make
14 a difference if you made \$5,000 as an
15 expert witness or \$5 million as an expert
16 witness?

17 A. I think that I -- I don't
18 know, and I don't mean to be evasive,
19 because it would depend upon, I would
20 think, the disclosure of the people on
21 the other side. So if everybody made
22 \$5 million, God bless, then I would think
23 it would be neutral.

24 Q. How much money have you made

1 as an expert witness in the mesh
2 litigation in totality?

3 A. I don't know. I do know
4 that for this year it's in excess of
5 \$300,000, for 2015.

6 Q. For 2015?

7 A. Yes.

8 Q. Do you know what your total
9 is for 2016 to date through April?

10 A. No.

11 Q. Do you know what your total
12 was in 2014?

13 A. I believe it was less than
14 that. But I don't know the number.

15 Q. Do you know what your total
16 was in 2013?

17 A. I assume it was much less.
18 I'm not even 100 percent sure that I was
19 even -- I don't know when I started this.
20 But it's just been a finite number of
21 years.

22 Q. You've made -- fair to say
23 that you've made hundreds of thousands of
24 dollars in this role as an expert

1 witness, correct?

2 MS. O'DELL: Object to form.

3 THE WITNESS: Yes. I just
4 said that.

5 BY MR. STRONGMAN:

6 Q. I want to talk a little bit
7 about the methodology that you used with
8 regard to your Safety Considerations
9 article. And let me first stop and ask,
10 the article that we're looking at,
11 Exhibit Number 3, is a review article; is
12 that correct?

13 A. Yes.

14 Q. What does that mean?

15 A. Oh, it means different
16 things to different people. But the
17 essence of it is that you do a search of
18 the literature using certain search
19 criteria that you accumulate all of the
20 articles that are encompassed by your
21 search criteria.

22 And then you apply exclusion
23 criteria. And after excluding certain --
24 whatever number of articles is necessary,

1 you're left with the articles that relate
2 to the topic at hand.

3 And then you evaluate each
4 one of those based on the methodology
5 that you've described.

6 Q. And so a review article is
7 separate from a piece of original
8 research; is that correct? Those are two
9 different things?

10 A. Well, one -- I consider them
11 to be similar. They're different because
12 there are creative ways to do review
13 articles. I mean, but I think that
14 answers your question.

15 Q. You have served in a role as
16 an editor of journals, correct?

17 A. I have.

18 Q. For a long time, right?

19 A. Yes.

20 Q. And you understand that
21 there's something different between
22 offering a piece of original research,
23 which is collecting data, analyzing data,
24 putting forth a study, as opposed to

1 saying, "I'm going to look at the
2 literature out there, summarize it, and
3 offer my opinion on it"? Those are two
4 different things?

5 A. Yes, they are.

6 Q. Okay. With regard to the
7 criteria that you used to develop the
8 article, Exhibit Number 3, at the very
9 end of the article there is a section
10 entitled "Review Criteria"; is that
11 correct?

12 A. There is.

13 Q. And does that review
14 criteria section set forth the method by
15 which you and your co-authors went about
16 developing the articles to look at?

17 A. It does.

18 Q. And there's a list of search
19 terms that are listed in this -- in this
20 paragraph, correct?

21 A. Correct.

22 Q. And among the search terms
23 are some products, for example, Monarc is
24 a search term. SPARC is a search term.

1 TVT is a search term, correct?

2 A. Correct.

3 Q. Is the Obtryx listed as a
4 search term?

5 A. I don't see that there.

6 Q. Okay. Is Advantage listed
7 as a search term?

8 A. I don't see that there
9 either.

10 Q. With regard to the search
11 that you and your co-authors performed,
12 it says that a total of 995 records were
13 retrieved from Medline; is that correct?

14 A. Correct.

15 Q. And then 249 were ultimately
16 included; is that correct?

17 A. Yes.

18 Q. And can you describe for me
19 the method by which you and your
20 co-authors went from 995 articles to 249?

21 A. Well, we started with -- I
22 have to check. We only -- we started
23 with English language. And they
24 essentially had to include -- I don't

1 have the particulars of it right in front
2 of me. But we -- we excluded articles
3 that, for whatever reason, we believed
4 were not relevant.

5 In fairness, we did have
6 a -- in the earlier version of this,
7 before the editors, before the
8 reviewers -- by the way, this was the
9 most rigorous review process I've ever
10 been -- I've written hundreds of
11 articles. And this was the most rigorous
12 review by the journal, to their credit.

13 So they condensed this. And
14 I don't have in my mind right now what
15 our exclusion criteria were. But they
16 were in the original article -- in the
17 original rendition of this.

18 Q. And when you talk about
19 exclusion criteria, those were actually
20 criteria that were written down, so that
21 somebody could go back and look and see
22 what criteria you used?

23 A. I believe so. My memory
24 would have been that, yes.

1 Q. How would I go about finding
2 out what those exclusion criteria were?

3 A. I'd have to look. You
4 couldn't. But I'd have to look through
5 all the previous versions, I mean, and
6 try to find it.

7 Q. If I wanted to recreate the
8 exact task that you did, that being doing
9 a search, coming up with -- or at least
10 seeing what the 995 articles were, and
11 then seeing what the 249 were that were
12 ultimately included, is that something
13 that I can do?

14 A. Possibly, if I can find it.
15 Actually, you've jogged my memory of
16 this. I do remember some of the
17 criteria, that we excluded articles that
18 used the same cohort over and over again,
19 and there were many like that, unless
20 they added what we thought was new
21 information. So that explains one.

22 And we excluded articles if
23 they had no relevant -- no relevant data.
24 I mean, if they said all the -- you know,

1 we did -- operated on 100 patients, and
2 they all did great, we would have
3 excluded that.

4 We wanted -- we wanted to
5 see that there was -- that there was
6 adequate science, adequate.

7 I mean, and so for example,
8 the conclusion -- there had to be enough
9 data to allow us to draw a judgment about
10 the integrity of the research.

11 And that was something that
12 at the time we -- at the time I -- it was
13 difficult to categorize and write those
14 things down. We would have written down
15 the broad category.

16 We subsequently have
17 expanded on that and developed
18 methodology that will actually look at
19 the quality of mesh reviews. But at the
20 time we did this, a lot of it was
21 subjective.

22 Q. Doctor, would you agree that
23 in science, the ability to replicate
24 something is one of the indicators of

1 reliability?

2 A. Yeah, I wouldn't -- I
3 wouldn't disagree with it. But -- but
4 things can be replicated and be
5 incorrect. So I don't put as high --
6 that's one of the factors about
7 reliability.

8 Q. Very good. And when you put
9 out a review like this, Exhibit Number 3,
10 one of the things that you wouldn't want
11 to shy away from is the ability for
12 anybody to look at exactly what you
13 looked at and to replicate the analysis,
14 if they wanted to, correct?

15 A. Correct.

16 Q. And based on the information
17 provided in your article, Exhibit Number
18 3, could somebody in fact replicate what
19 you and your co-authors did in terms of
20 figuring out exactly what articles were
21 excluded and why?

22 A. I would say from the
23 information provided here, the answer is
24 no, not completely, no. They can

1 certainly look at the search terms.

2 They -- but they could not -- there isn't
3 anything in here that I can see about the
4 exclusion.

5 So I would say they could
6 not -- no, it says, only articles
7 published -- yeah, some things, yes.

8 Q. Okay.

9 A. I mean, I'm going to retract
10 my no and I'm going to say partially.

11 Q. Okay. You would agree with
12 me that partially being able to recreate
13 it is different than entirely being able
14 to recreate it of course?

15 A. That's why we have words,
16 yes.

17 Q. And with regard to why an
18 article was included or excluded, is
19 there any written documentation of that?

20 A. Not in the article.

21 Q. Is there any written
22 documentation that the authors kept as to
23 each individual article that was included
24 or excluded?

1 A. I don't know. And part of
2 it is the process. I mean, we --
3 everybody read all the abstracts. Then
4 we decided -- then as a group, we decided
5 -- and I don't believe we wrote that
6 down. We decided which merited further
7 review.

8 And -- but any discrepancies
9 were -- were decided by the group. And I
10 don't know the extent to which those
11 things were written down.

12 Q. And with regard to
13 discrepancies being determined by -- I
14 think the term here is open discussion;
15 is that right?

16 A. Yes.

17 Q. Is there any record of what
18 those open discussions were?

19 A. I don't think so.

20 Q. Was there any criteria
21 specifically that was used to focus or
22 control those open discussions?

23 A. Well, there were general --
24 I already mentioned one that we didn't

1 use the same -- when we added up --
2 excuse me.

3 I'm sorry. Are you talking
4 about the exclusion criteria or the data
5 analysis? I didn't -- I don't remember
6 the beginning of the sentence, your
7 sentence.

8 Q. Let me just read this, and
9 maybe this will help focus what I want to
10 talk about.

11 In this paragraph under
12 review criteria, it says, "Six of the
13 authors reviewed the full text to select
14 relevant papers. Discrepancies were
15 solved by open discussion."

16 Did I read that correctly?

17 A. Yes.

18 Q. Is open discussion
19 scientific?

20 A. Well, sure it is.

21 Q. Okay. Is there anything I
22 can do to replicate what was the
23 guideposts in that open discussion
24 between the authors?

1 A. I don't know. I'd have --
2 I'd have to look back.

3 Q. And if there was a
4 discrepancy, were there ultimately
5 disagreements about certain articles
6 between the authors to include or
7 exclude?

8 A. Well, that's what a
9 discrepancy is. And we -- we would have
10 resolved it as best we could. I don't
11 think there were actually -- there were
12 discrepancies, but the discrepancies were
13 resolved by either finding or not finding
14 the necessary requirements.

15 So if -- for example, if we
16 looked at a study and the conclusion said
17 that there was an 80 percent success rate
18 or something, and then we looked at the
19 article and there was no methodology to
20 determine what the success rate is, we
21 would have -- we would have agreed to
22 exclude that.

23 I don't have a recollection
24 anytime of there being a disagreement.

1 There were -- it was more -- and not that
2 people don't disagree. But it was pretty
3 clear -- I don't -- whether or not our
4 requirements were -- were adhered to.

5 Q. Okay. Are there any written
6 records or any notes specifically
7 documenting what the discrepancies were
8 and how they were resolved through open
9 discussion?

10 A. No.

11 Q. Doctor, in your "Safety
12 Considerations For Synthetic Sling
13 Surgery" article, did you cite any Obtryx
14 studies?

15 A. I don't remember. I know
16 there weren't many when I subsequently --
17 after -- in the review for this, I know
18 there were relatively few.

19 Q. Doctor, sitting here today,
20 do you know whether or not you actually
21 reviewed or cited any Obtryx studies in
22 your article --

23 A. No.

24 Q. -- Exhibit Number 3?

1 Going back to the first page
2 of your article, you note that the
3 effectiveness of this approach remains
4 unchallenged, correct?

5 A. Sorry. Where?

6 Q. Let me start over. In the
7 introduction, you talk about somewhat the
8 history of incontinence surgery; is that
9 correct?

10 A. Yes.

11 Q. You talk about your
12 preferred surgery, the autologous fascia
13 pubovaginal sling; is that right?

14 A. Yes.

15 Q. You also mention the Burch
16 procedure, correct?

17 A. Yes.

18 Q. And then you start talking
19 about what you in the article labeled as
20 the synthetic midurethral sling surgery;
21 is that right?

22 A. Yes.

23 Q. And describe in the
24 introduction that the synthetic

1 midurethral sling surgery is minimally
2 invasive; is that correct?

3 A. Where are you referencing
4 that?

5 Well, it's preceded by, "In
6 theory." I said, "The appeal of such
7 procedures is obvious, that midurethral
8 sling is a minimally invasive, easy to
9 perform procedure." That's in theory.

10 Q. Okay. Let me back up and
11 ask a question.

12 You have a sentence that
13 says, "The appeal of such procedures" --
14 and you're referring to the synthetic
15 midurethral slings, correct?

16 A. Yes.

17 Q. "The appeal of such
18 procedures is obvious in theory."
19 Correct?

20 A. Yes.

21 Q. It then states, "Synthetic
22 midurethral sling implantation is
23 minimally invasive," correct?

24 A. Yes.

1 Q. "Easy to perform"; is that
2 correct?

3 A. Yes.

4 Q. "And is usually completed in
5 under a half an hour"; is that right?

6 A. I -- that's what people say,
7 yes.

8 Q. That's a fact, true?

9 A. I'll grant you that.

10 Q. And you would agree that the
11 synthetic midurethral sling is widely
12 considered to be minimally invasive?

13 A. I would agree it's
14 considered to be, yes. But not by me.

15 Q. And then you also list that,
16 "The synthetic midurethral sling enables
17 a much faster recovery with less
18 perioperative morbidity than either the
19 Burch colposuspension or autologous
20 fascial slings."

21 Did I read that correctly?

22 A. You did.

23 Q. And those are also widely
24 considered the facts with regard to the

1 synthetic midurethral sling; is that
2 correct?

3 A. A lot of people would agree
4 to that.

5 Q. And doctor, I understand
6 that you have a different opinion than
7 some doctors on midurethral slings; is
8 that correct?

9 A. I do.

10 Q. And differences of opinion
11 among doctors happens all the time,
12 correct?

13 A. Yes.

14 Q. Just because one doctor
15 agrees or disagrees with another doesn't
16 make one reasonable or unreasonable
17 inherently; is that right?

18 MS. O'DELL: Objection to
19 form.

20 THE WITNESS: Hopefully not.
21 BY MR. STRONGMAN:

22 Q. In other words, reasonable
23 doctors can disagree about surgical
24 treatments, correct?

1 A. Yes.

2 Q. And then your papers states
3 that the effectiveness of this approach
4 remains unchallenged, correct?

5 A. That I agree with, without
6 qualification. Okay.

7 Q. So to this day, you would
8 agree that the effectiveness of the
9 synthetic midurethral sling is
10 unchallenged, correct?

11 A. Yes.

12 Q. Your concerns, as you've
13 laid them out in your supplemental
14 report, deal with doctors' knowledge and
15 patients' knowledge about safety with
16 regard to the synthetic midurethral
17 slings, correct?

18 A. Correct.

19 Q. Doctor, going over to the
20 second page of your article under
21 transvaginal mesh slings. Do you see
22 that?

23 A. I do.

24 Q. It states that, "The

1 retropubic tension-free vaginal mesh tape
2 sling procedure was introduced for
3 treatment of SUI in 1995."

4 Did I read that correctly?

5 A. You did.

6 Q. Now, what was introduced in
7 1995?

8 A. Well, it was the precursor
9 to the TVT. It was called Intravaginal
10 Slingplasty.

11 Q. And how long before 1995 had
12 physicians been cutting mesh and using it
13 to treat stress urinary incontinence
14 surgically?

15 A. Oh, people have been doing
16 it as far back as the '60s, '70s, 1960s,
17 1970s.

18 Q. And then you also note that
19 in 2001 the transobturator tape procedure
20 came about in the literature; is that
21 correct?

22 A. Yes.

23 Q. And likewise, before 2001,
24 were doctors doing procedures with mesh

1 where they were using the transobturator
2 route, but doing it by cutting mesh and
3 doing the procedure themselves?

4 A. I don't know the exact
5 dates, but yeah, I mean, before it was
6 commercially available, there were people
7 that had done just what you said.

8 Q. And, Doctor, would you agree
9 that the idea to use mesh to surgically
10 treat stress urinary incontinence was the
11 idea of a doctor?

12 A. Yes.

13 Q. And it was the idea of
14 doctors trying to come up with better
15 solutions to treat and cure their
16 patients, true?

17 A. Yes.

18 Q. Do you know when the Obtryx
19 device was first marketed?

20 A. I don't have an independent
21 recollection, but sometime, you know,
22 somewhere in the early 2000s.

23 Q. Do you know how long the
24 Obtryx was on the market -- strike that.

1 Do you know how many years
2 transobturator slings were on the market
3 before the Obtryx came?

4 A. I don't have any independent
5 knowledge of that.

6 Q. Going back to your article,
7 one of the things that you do, is you
8 have a series of tables in your article.
9 I want to start with Table Number 1.

10 And can you just describe
11 for me what is included in Table Number
12 1?

13 A. Long-term follow-up of --
14 follow-up of studies that had five or
15 more years with respect to effectiveness.

16 Q. And you have both
17 prospective studies and retrospective
18 studies listed there?

19 A. I do.

20 Q. And then with regard to
21 Table Number 2, can you tell me what is
22 included in Table Number 2?

23 A. Complications of either
24 retropubic or transobturator slings,

1 which means that we combined both
2 approaches, one set of complications.

3 Q. Can you tell me how -- or
4 strike that.

5 Can you tell me where
6 exactly the data in Table Number 2 comes
7 from?

8 A. Yes. We took all of -- all
9 of our case -- all of the -- every single
10 study we looked at, and we looked at the
11 complications listed, and that became the
12 numerator. And the denominator was all
13 the patients in all the series, excluding
14 studies that had -- where they used the
15 same cohort more than once.

16 And just to clarify, I said
17 in the beginning we excluded studies like
18 that, but not if they -- sometimes not if
19 they had completely different data.

20 So sometimes we used the
21 same cohort -- we reviewed the same
22 cohort, but -- in two different studies,
23 but we used as the denominator the total
24 number of patients. We didn't add the

1 two together.

2 Q. And are all of the articles
3 that you reviewed and compiled to come up
4 with the data in Table Number 2 cited and
5 listed in your article?

6 A. They are.

7 Q. And the same would go for
8 Table Number 3?

9 A. Yes.

10 Q. And the same would go for
11 Table Number 4, I believe; is that
12 correct?

13 A. Yes.

14 Q. And just so it's clear, the
15 data that's presented in Table Number 1
16 is just some of the data that ultimately
17 ends up in the next series of tables, 2,
18 3, and 4; is that correct?

19 A. Oh, yes. Yes.

20 Q. Doctor, in your article, you
21 indicate that a minimum of 12.5 percent
22 of women who undergo synthetic mesh
23 surgery would have a negative outcome?

24 A. You said 12.5 percent? No.

1 It's actually in the article 15 percent
2 and 12.5 percent. There it says greater
3 or equal to 12.5. We subsequently say
4 greater or equal to 15 percent.

5 Q. Doctor, if you would look
6 with me on what's Page 486 of your
7 article.

8 A. Yes.

9 Q. Specifically states that a
10 minimum of 12.5 percent of women who
11 undergo mesh SMUS surgery have a serious
12 adverse event and/or surgical failure; is
13 that correct?

14 A. Yes.

15 Q. And if you look at the
16 conclusion, it reiterates the
17 12.5 percent number; is that correct?

18 A. Yes.

19 Q. Now, in your report in this
20 case, your supplemental report, you do
21 indicate 15 percent, correct?

22 A. Correct. And in the paper,
23 in the other summary.

24 The -- one of the

1 differences is, in this statement, does
2 not take into account the 3.9 percent
3 refractory overactive bladder, because we
4 didn't consider that to be a serious
5 adverse event. We were talking more
6 about surgical -- things that required
7 surgery. And surgical failure, we were
8 referring to recurrent stress
9 incontinence.

10 Q. So if a patient had
11 recurrent stress urinary incontinence,
12 they fell within that 12.5 to 15 percent?

13 A. Yes.

14 Q. And by math, that would mean
15 85 to 87 percent of women that have mesh
16 implanted to treat stress urinary
17 incontinence don't have negative
18 outcomes, correct?

19 MS. O'DELL: Object to form.

20 THE WITNESS: Serious
21 negative outcomes, yes.

22 BY MR. STRONGMAN:

23 Q. Doctor, does the word
24 "Obtryx" appear anywhere in your "Safety

1 Considerations" article that we marked as
2 Exhibit 3?

3 A. Again, I don't have an
4 independent recollection of that.

5 Q. And when you talk about the
6 safety considerations that you articulate
7 in your article, you talk about synthetic
8 mesh slings in general, correct?

9 A. Yes.

10 Q. And in some categories, you
11 narrow it down to the transobturator
12 approach and the retropubic approach,
13 correct?

14 A. Yes.

15 Q. But nowhere in your article
16 do you actually discuss risks divided
17 down by specific device, such as the
18 Obtryx, correct?

19 A. Correct.

20 Q. There are sections in your
21 review article toward the back that talk
22 about biomaterials issues, correct?

23 A. Yes, there are.

24 Q. Okay. And did you actually

1 author the sections on biomaterial and
2 pathology issues?

3 A. No.

4 Q. Who did?

5 A. Dr. Iakovlev.

6 Q. And I noticed in the article
7 on Page 491, it indicates that, "Type 1
8 polypropylene mesh is currently
9 considered to be the optimal SMUS mesh
10 material, owing to its large pore size
11 which facilitates infiltration of
12 macrophages and fibroblasts, promotes
13 neovascularity and tissue ingrowth, and
14 minimizes the likelihood of infection,"
15 correct.

16 MS. O'DELL: Where are you
17 reading, Jon? Page 491 okay.
18 Thank you.

19 THE WITNESS: Yes.

20 BY MR. STRONGMAN:

21 Q. And do you know whether or
22 not the Obtryx is a Type 1 polypropylene
23 mesh?

24 A. It is.

1 Q. Doctor, as part of your
2 process of putting this article together,
3 did you talk with Dr. Iakovlev about how
4 much money he has made in the mesh
5 litigation?

6 A. No, we did not.

7 Q. Is that a relevant
8 consideration to you at all?

9 A. Not at all. I judge people
10 by the scientific integrity of what they
11 say and write, not by what their incomes
12 are.

13 Q. Do you know whether or not
14 Dr. Iakovlev's opinions have been
15 excluded in this case?

16 A. I do not.

17 Q. Would it surprise you to
18 find out that he had opinions excluded as
19 being unreliable?

20 MS. O'DELL: I'll object --
21 I would object to the question,
22 and I would say Dr. Iakovlev has
23 not been named an expert in
24 Ms. Frankum's case. So to the

1 degree that you are suggesting
2 that, that would be incorrect.

3 THE WITNESS: I --

4 MS. O'DELL: There is no
5 question.

6 THE WITNESS: Okay. Go --

7 BY MR. STRONGMAN:

8 Q. You can answer it.

9 MR. STRONGMAN: Your
10 objection is noted.

11 BY MR. STRONGMAN:

12 Q. You can answer.

13 A. I think he exhibits the
14 highest degree of significant integrity.
15 And I can't think of a scientific reason
16 why his testimony should be excluded.

17 Q. Doctor, on the issue of mesh
18 degradation, would you refer to a
19 biomaterials expert?

20 A. Not a single biomaterials
21 expert. I think there's a body of
22 literature that anybody can read and
23 formulate opinions, including me.

24 Q. Doctor, do you believe that

1 the question of whether or not
2 polypropylene degrades in the body has
3 yet to be fully resolved?

4 A. I think there's a
5 substantial body of evidence that it does
6 degrade. And I am aware of scientific
7 opinions to the contrary.

8 Q. Do you believe it's a
9 settled question as to whether or not
10 polypropylene degrades in the body?

11 A. No. I think I've already
12 answered it -- answered that. But --
13 have I?

14 Q. In that you would agree that
15 it's not a settled question, correct?

16 A. Well, there's controversy.
17 I don't know that anything is ever
18 settled 100 percent. But there are
19 people on both sides of it. And I've
20 already expressed my opinion.

21 Q. Would you agree that there's
22 good scientists on both sides of that
23 debate?

24 A. Yes, I do.

1 Q. I've got 12 minutes left,
2 Doctor. It goes fast.

3 Doctor, I want to turn to
4 your expert report, which we've marked as
5 Exhibit Number 2.

6 A. Okay.

7 Q. On Page 3, again, you are
8 referencing -- at the very top, you are
9 referencing your article that we've just
10 been going through.

11 A. Yes.

12 Q. Correct?

13 A. Yes.

14 Q. And one of the things that
15 you say, "The exhaustive research
16 presented" --

17 A. Where are you looking?

18 Q. -- "further supports the
19 opinion."

20 Right at the very top.

21 A. Yes.

22 Q. All right. And so the
23 characterization that you have is that
24 the work that went into your "Safety

1 Considerations" article was exhaustive
2 research, correct?

3 A. It was.

4 Q. And can you sit here today
5 and say whether or not Obtryx studies
6 were actually included in that research?

7 A. I don't remember. No, I
8 can't. I just simply don't remember.

9 Q. And then when you go through
10 the next paragraph, you discuss somewhat
11 of the nature of the peer review process
12 that your article went through; is that
13 right?

14 A. Yes.

15 Q. One of the things about the
16 peer review process is that not all of
17 the peer reviewers agree with each other;
18 is that right?

19 A. Correct. I don't know if --
20 are you asking me in general?

21 Q. Just in general?

22 A. Yes.

23 Q. No, no, just in general.

24 A. Yes.

1 Q. And that's what the peer
2 review process is all about, is getting
3 feedback, right?

4 A. Yes.

5 Q. And you list some of the
6 questions in your expert report that the
7 peer reviewers had to consider, right?

8 A. Yes.

9 Q. And obviously there are
10 other questions that they had to consider
11 as well, correct?

12 A. Yes.

13 Q. And do you consider the peer
14 review process to be protected in that --
15 am I able to see what the peer reviewers
16 actually commented on with regard to your
17 article?

18 A. I don't know.

19 Q. Is that something that
20 you're willing to provide?

21 A. I'd have to -- I don't know
22 if I'd be willing to provide it or not.
23 I don't like to make spot decisions.

24 Q. I understand.

1 A. But certainly the journal
2 has the option to do whatever they want.

3 Q. Do you have any issue with
4 us having access to that, provided there
5 aren't other objections from the journal
6 or whatnot?

7 A. It's their -- at this point,
8 it's their property and they can do what
9 they see fit.

10 Q. Your second opinion in your
11 supplemental expert report is, "Higher
12 quality and longer term studies are
13 needed to accurately assess the risk of
14 SMUS complications," correct?

15 A. Correct.

16 Q. And, Doctor, would you agree
17 that there are publications out there
18 indicating that the safety and
19 effectiveness of synthetic midurethral
20 slings is well established already?

21 A. I'm not sure I -- I don't
22 know about peer-review papers that say
23 that. That -- certainly I'm not aware of
24 peer-review papers that provide a

1 compelling argument for that.

2 Q. Doctor, you would agree that
3 the overwhelming number of publications
4 that exist on synthetic midurethral
5 slings conclude that it is a safe and
6 effective procedure, correct?

7 A. They do, but their
8 methodology, in my judgment, does not
9 support those statements.

10 Q. So the authors make those
11 conclusions, correct?

12 A. Many do, yes.

13 MS. O'DELL: Object to form.

14 BY MR. STRONGMAN:

15 Q. And you disagree with them?

16 MS. O'DELL: Object to form.

17 THE WITNESS: Well, I think
18 I've already said -- I've already
19 answered the question.

20 BY MR. STRONGMAN:

21 Q. And that is that yes, you
22 disagree with their conclusions, correct?

23 A. Well, I don't disagree with
24 it about safety -- about efficacy. But I

1 think -- I mean, just look at any
2 article. Almost none of them have any
3 methodology to evaluate safety. Most
4 don't even define safety, what they mean
5 by safety.

6 Q. Doctor, would you agree that
7 I could find articles that indicate that
8 patients undergoing the autologous
9 pubovaginal sling procedure are more than
10 15 percent likely to have a negative
11 outcome?

12 A. It depends on what you mean
13 by negative outcome. I don't know
14 what --

15 Q. Well, the same way you
16 defined it with regard to the synthetic
17 midurethral sling.

18 A. Oh, no. We use numbers. We
19 don't -- we used numbers. We said
20 15 percent, and then we describe what
21 they are. I don't think -- I don't know.
22 I mean, I'm sure it's possible to find
23 papers that say just about anything. But
24 I don't know.

1 Well, yeah, I mean, if you
2 consider -- look, none of them have
3 100 percent success rate. And, you know,
4 there are papers that find 40 and 50 and
5 60 percent failure rates with -- maybe
6 not -- yeah --

7 Q. Yeah.

8 A. -- failure rates with
9 midurethral slings and autologous slings.

10 Q. Would you agree that
11 physician experience -- strike that.

12 Would you agree that the
13 physicians' own experience is a paramount
14 factor in deciding what procedure they
15 should use on their patients?

16 MS. O'DELL: Object to the
17 form.

18 THE WITNESS: Experience and
19 knowledge and judgment, yes.

20 BY MR. STRONGMAN:

21 Q. And, Doctor, you also
22 include in your expert report a section
23 on tumorigenicity; is that correct?

24 A. Yes.

1 Q. And, Doctor, you are not
2 offering an opinion to a reasonable
3 degree of medical certainty that
4 polypropylene mesh causes cancer,
5 correct?

6 A. No. I mean, my opinion is
7 quite clear that it's something that
8 should be taken into account and studied
9 in the future.

10 Q. And you would agree that
11 there's insufficient data today to
12 conclude that there's a causal
13 relationship between cancer and
14 polypropylene mesh, correct?

15 A. Well, I would say there is
16 no data. There hasn't been long-term
17 studies. No one suggests that it causes
18 cancer right away.

19 Q. And, Doctor, your article
20 that we marked as Exhibit Number 3, all
21 of the information that you cite and all
22 of the articles that you cite in your
23 article were publicly available to
24 doctors other than yourself, correct?

1 MS. O'DELL: Object to the
2 form.

3 THE WITNESS: Well, it
4 depends on what you mean by
5 publicly available. If someone
6 were to go to the trouble of
7 looking at so many obscure
8 journals, they could find it, but
9 it wasn't -- everything is
10 publicly available unless it's in
11 a lockbox. But many of the
12 articles were not readily publicly
13 available because -- because they
14 were in obscure journals.

15 BY MR. STRONGMAN:

16 Q. But safety information in
17 publications on midurethral slings are
18 available in the published literature,
19 correct?

20 A. I'm sorry. Could you -- I
21 want to answer precisely. Could you read
22 that back or say that again?

23 Q. Sure. Safety information on
24 midurethral slings is available in the

1 published medical literature, correct?

2 A. No, I would say that -- I
3 would say no, that there have been almost
4 no studies that specifically looked at
5 safety, except for short-term safety.
6 There is plenty of data on 30 days. But
7 on long-term safety, there is simply no,
8 or almost no studies that have any kind
9 of a methodology that would even allow
10 you to form a judgment about safety.

11 Q. Doctor, you would agree that
12 there are reasonable doctors still using
13 synthetic midurethral slings today,
14 correct?

15 A. Yes.

16 Q. And you would agree that
17 there are reasonable doctors that,
18 knowing the risks set out in your review
19 article, still decide to use midurethral
20 slings made of polypropylene mesh,
21 correct?

22 MS. O'DELL: Object. Object
23 to the form.

24 THE WITNESS: I would submit

1 that the overwhelming majority of
2 doctors don't know about the
3 risks.

4 But yes, to answer your
5 question, there are reasonable
6 doctors that do and make the
7 judgment to use it, to use
8 midurethral slings.

9 BY MR. STRONGMAN:

10 Q. And you're not critical of
11 those doctors or the judgments that they
12 make for their patients, correct?

13 A. No -- slightly so.
14 Slightly. I mean, I wish people paid
15 more attention, but it's difficult.

16 Q. And, Doctor, you would
17 certainly agree that it is widely
18 accepted, even in light of the
19 information contained in your review
20 article, that synthetic midurethral
21 slings should be an option for doctors,
22 correct?

23 MS. O'DELL: Object to the
24 form.

1 THE WITNESS: It's currently
2 widely accepted, yes.

3 BY MR. STRONGMAN:

4 Q. Doctor, do you know
5 Dr. Jennifer Anger?

6 A. I do.

7 Q. Do you respect her?

8 A. Very much so.

9 Q. Is she a good doctor?

10 A. She is a wonderful doctor,
11 wonderful person.

12 Q. Is she a reasonable doctor?

13 A. Yes, she's a reasonable
14 doctor.

15 Q. Doctor, you would agree that
16 the Obtryx is still considered to be
17 within the standard of care for the
18 treat --

19 A. I'm sorry. The which?

20 Q. Sure.

21 A. I just didn't hear the word.

22 Q. I'll rephrase.

23 A. Oh, Obtryx.

24 Q. Doctor, would you agree that

1 the Obtryx is still considered to be
2 within the standard of care for the
3 surgical treatment of stress urinary
4 incontinence today?

5 A. I would.

6 Q. Doctor, do you intend to
7 testify at the Frankum trial?

8 A. I have no idea.

9 Q. Do you know when the trial
10 is set?

11 A. I do not.

12 Q. You don't know what month?

13 A. I guess I just -- the
14 answer, I guess, is yes and yes.

15 Q. Do you know what month of
16 the year it's set for?

17 A. No. I hope it's not May.

18 Q. But it's fair to say that
19 it's not on your calendar as of today?

20 A. I honestly don't know.

21 Q. The last thing I'll do with
22 my 30 seconds, I believe that you brought
23 with you a copy of your supplemental
24 report that had some comments in it.

1 A. Yes.

2 Q. Is that correct?

3 If it's all right with you,
4 I'd just like to mark that as an exhibit.

5 A. I'm sorry. I thought we
6 already did.

7 Q. No. We marked the one
8 without comments.

9 A. Okay.

10 (Document marked for
11 identification as Exhibit
12 Blaivas-4.)

13 BY MR. STRONGMAN:

14 Q. And then the notebook that
15 you have in front of you, is that your
16 only copy of that notebook?

17 A. Yes.

18 Q. Would it be possible for us
19 to mark it as an exhibit so I can see
20 what articles specifically you've
21 included in your notebook?

22 A. I believe you're entitled to
23 that.

24 MR. STRONGMAN: And that --

1 let me do that on the record.

2 We marked as Exhibit Number
3 4 the supplemental report of Dr.
4 Blaivas with his comments included
5 in them.

6 We will mark as Exhibit
7 Number 5 the notebook that he
8 brought with him today.

9 (Document marked for
10 identification as Exhibit
11 Blaivas-5.)

12 MR. STRONGMAN: That's all
13 the questions I have.

14 MS. O'DELL: Nothing. No
15 questions.

16 THE VIDEOGRAPHER: The time
17 right now is 12:14 p.m. We're off
18 the record.

19 (Witness excused.)

20 (Deposition concluded at
21 approximately 12:14 p.m.)

22

23

24

1
2 CERTIFICATE
3
4

5 I HEREBY CERTIFY that the
6 witness was duly sworn by me and that the
7 deposition is a true record of the
8 testimony given by the witness.

9 It was requested before
10 completion of the deposition that the
11 witness, JERRY G. BLAIVAS, M.D., have the
12 opportunity to read and sign the
13 deposition transcript.

14
15 _____
16 MICHELLE L. GRAY,
17 A Registered Professional
18 Reporter, Certified Shorthand
19 Reporter and Notary Public
20 Dated: May 3, 2016
21
22

23 (The foregoing certification
24 of this transcript does not apply to any
reproduction of the same by any means,
unless under the direct control and/or
supervision of the certifying reporter.)

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

- - - - -
E R R A T A
- - - - -

PAGE LINE CHANGE

_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____
_____	_____	_____
REASON:		_____

ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, 1 - 73, and that the
same is a correct transcription of the
answers given by me to the questions
therein propounded, except for the
corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

JERRY G. BLAIVAS, M.D.

DATE

Subscribed and sworn
to before me this

_____ day of _____, 20____.

My commission expires: _____

Notary Public

	LAWYER'S NOTES		
	PAGE	LINE	
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			